

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CUMBERLAND PHARMACEUTICALS INC.      :
                                      :
                                Plaintiff, :      22 Civ. 0915 (VM)
                                      :
- against -                          :      ORDER
                                      :
MELINTA THERAPEUTICS, LLC, et al.,    :
                                      :
                                Defendants. :
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VICTOR MARRERO, United States District Judge.


On April 6, 2022, consistent with the Court's Individual Practices, counsel for defendants Melinta Therapeutics, LLC and Targanta Therapeutics Corporation (collectively, "Melinta") sent counsel for Cumberland Pharmaceuticals Inc. ("Cumberland") a premotion letter identifying alleged deficiencies in the Complaint (Dkt. No. 1) that Cumberland filed in this action, and that allegedly would provide a basis supporting a motion to dismiss. (See Dkt. No. 14.) On April 13, also consistent with the Court's Individual Practices, counsel for Cumberland sent a three-page letter in response, opposing the grounds that Melinta stated in favor of the proposed motion. (See Dkt. 15.) On April 22, 2022 the Court received a letter from Melinta asserting that the letter exchange did not resolve the dispute and thus failed to avoid motion practice at this stage of the proceedings. (See Dkt. No. 17.)

Upon review of all premotion letters, the Court is not persuaded that a premotion conference or further briefing is necessary to resolve the parties' dispute. In accordance with this Court's

Individual Practices and Rule 7.1 of the Court's Local Rules, Melinta may file a motion to dismiss which shall not exceed three pages in length (single spaced, twelve-point font), unless, upon a party's request, the Court authorizes a larger number. The substance of such motion may not deviate materially from the basis for dismissal that Melinta stated in its initial premotion letter. Melinta is directed to include as an exhibit the parties' agreement at issue. In response, within seven (7) days of the filing of Melinta's motion, Cumberland may file its opposition, which may similarly not exceed three pages (single spaced, twelve-point font), opposing the motion. Melinta may file a three-page reply within seven (7) days of the filing of Cumberland's response.

SO ORDERED.

Dated: New York, New York
June 24, 2022



Victor Marrero
U.S.D.J.